The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 29

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte GILLES BOCCON-GIBOD
and
DAVID McLAREN

Appeal No. 2005-0441
Application 08/913,803

ON BRIEF

Before JERRY SMITH, SAADAT, and MACDONALD, Administrative Patent Judges.

JERRY SMITH, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on the appeal under 35 U.S.C. § 134 from the examiner's rejection of claims 8-10, 16 and 17. Pending claims 12-14 have been allowed by the examiner.

The disclosed invention pertains to the field of video programs and specifically to an apparatus for providing reproduction of video programs at a plurality of speeds.

Representative claim 8 is reproduced as follows:

8. An apparatus for reproducing video programs, comprising:

means for storing a plurality of video program records, wherein each program record having a set of digitally encoded signal records representative of said each program;

means for linking said encoded signal records of each said set to one another at predetermined jump points for selecting reproduction from different ones of said set; and,

wherein each said set of digitally encoded signal records has records of differing sizes for reproduction at a plurality of speeds.

The examiner relies on the following reference:

Abecassis	6,091,886	July 18, 2000 (effectively filed Jan. 11, 1993)

Claims 8-10, 16 and 17 stand rejected under 35 U.S.C. § 102(e) as being anticipated by the disclosure of Abecassis.

Rather than repeat the arguments of appellants or the examiner, we make reference to the brief and the answer for the respective details thereof.

OPINION

We have carefully considered the subject matter on appeal, the rejection advanced by the examiner and the evidence of anticipation relied upon by the examiner as support for the rejection. We have, likewise, reviewed and taken into consideration, in reaching our decision, the appellants' arguments set forth in the brief along with the examiner's rationale in support of the rejection and arguments in rebuttal set forth in the examiner's answer.

It is our view, after consideration of the record before us, that the disclosure of Abecassis does not fully meet the invention as set forth in the claims on appeal. Accordingly, we reverse.

Anticipation is established only when a single prior art reference discloses, expressly or under the principles of inherency, each and every element of a claimed invention as well as disclosing structure which is capable of performing the recited functional limitations. RCA Corp. v. Applied Digital Data Sys., Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir.); cert. dismissed, 468 U.S. 1228 (1984); W.L. Gore and

Assocs., Inc. v. Garlock, Inc., 721 F.2d 1540, 1554, 220 USPQ 303, 313 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984).

The examiner has indicated how he reads the claimed invention on the disclosure of Abecassis [answer, pages 3-8]. With respect to independent claim 8, appellants argue that each signal record of the claimed invention is representative of the complete video program. Appellants argue that none of the portions of Abecassis cited by the examiner discloses the means of claim 8. Appellants also argue that Abecassis makes no mention of reproducing at a plurality of speeds, and absent such teachings, there is no disclosure of signal records forming the set having records of different sizes. Appellants note that although the length of a program in Abecassis can be changed, the playing speed is not changed [brief, pages 5-9].

The examiner responds by again pointing to the portions of Abecassis which meet the means of claim 8. With respect to the argument regarding reproducing video at a plurality of speeds, the examiner observes that skipping portions of a program in Abecassis results in the reproduction speed being changed [answer, pages 9-10].

We will not sustain the examiner's rejection of independent claim 8 or of claims 9 and 10 which depend therefrom. Although the examiner has cited portions of Abecassis as corresponding to each of the means of claim 8, he has not specifically identified how he reads each of the elements of claim 8 on the disclosure of Abecassis. For example, it is not clear from the rejection what in Abecassis corresponds to the video program records, the set of digitally encoded signal records representative of each program, and how each set of encoded signal records has records of differing sizes for reproduction at a plurality of speeds. Nevertheless, it appears that the video program and the various edited portions of the video program can be deemed to meet the means for storing and linking as these elements are broadly recited in claim 8. What is not apparent, however, is how the claimed set of digitally encoded signal records has records of differing sizes for reproduction at a plurality of speeds. The examiner views a reduced edited version of the full program in Abecassis as being played at a different speed than the full program because it is played in less time. The speed of reproduction of a video program, however, generally refers to the speed of reproduction

as perceived by the viewer. In other words, the plurality of speeds recited in claim 8 refers to trick-play modes of reproduction as clearly described in the specification and not simply to the amount of time it takes to reproduce a given program. We agree with appellants that Abecassis has nothing to do with adjusting the speed of reproduction of a video program. Therefore, we find that Abecassis fails to disclose every feature of the invention recited in claim 8.

Independent claim 16 has recitations similar to independent claim 8. Claim 16 also specifically recites a control means responsive to user selection of different play speeds. As noted above, we find that Abecassis has nothing to do with the selection of different play speeds for reproduction of video signals. Therefore, we do not sustain the examiner's rejection of independent claim 16 or of claim 17 which depends therefrom.

In summary, we have not sustained the examiner's rejection of the claims on appeal. Therefore, the decision of the examiner rejecting claims 8-10, 16 and 17 is reversed.

REVERSED

JERRY SMITH)
Administrative Patent Judge)
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MAHSHID D. SAADAT) BOARD OF PATENT
Administrative Patent Judge) APPEALS AND
)
ALLEN R. MACDONALD) INTERFERENCES
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